

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

STEPHANIE WILSON,

Plaintiff,

v.

DISCOVER BANK,

Defendant.

No.

NOTICE OF REMOVAL OF CIVIL
ACTION TO FEDERAL COURT

TO: The Honorable Judges of the United States District Court for the Western District of Washington at Tacoma

Pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, defendant Discover Bank hereby removes the above-captioned action from the Superior Court of Washington for Clallam County to this Court on the basis of federal question jurisdiction. The following statement is submitted in accordance with 28 U.S.C. § 1446:

I. BACKGROUND

1. Defendant Discover Bank ("Discover") is an FDIC Delaware-insured Delaware state bank. *See* Declaration of Erin M. Wilson ("Wilson Decl.") at ¶ 2.

2. Plaintiff Stephanie Wilson ("Wilson") is a resident of Clallam County, Washington. Wilson commenced this action against Discover in the Superior Court of Washington for Clallam County. Plaintiff's Complaint for Violation of the Federal Telephone

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1 Consumer Protection Act was served on Discover on February 9, 2012. Wilson Decl., ¶ 3.
2 Plaintiff's Complaint was filed with the Clallam County Superior Court on January 12, 2012,
3 and is now pending as Cause No. 12-2-00031-2. *Id.* Plaintiff's Complaint purports to assert
4 claims against Discover for violations of 47 U.S.C. § 227, the Telephone Consumer Protection
5 Act ("TCPA"). A true and correct copy of the Summons and Complaint is attached to the
6 Wilson Decl. as Exhibit A.

7 II. STATUTORY REQUIREMENTS—FEDERAL QUESTION

8 3. Pursuant to 28 U.S.C. § 1331, this Court has original jurisdiction over
9 Plaintiff's Complaint based on federal question jurisdiction, because this civil action arises
10 under the Constitution, laws, or treaties of the United States, namely, 47 U.S.C. § 227, the
11 TCPA. The Plaintiff's complaint alleges a single cause of action: violation of the TCPA. *See*
12 Complaint at ¶¶ 5, 8.

13 4. Specifically, Plaintiff alleges that Discover Bank made numerous telephone
14 calls to her cellular telephone, without her prior express consent, using an automatic telephone
15 dialing system. Plaintiff alleges that these telephone calls violated the TCPA.

16 5. The United States Supreme Court's decision in *Mims v. Arrow Fin. Servs.,*
17 *LLC*, 132 S.Ct. 740 (U.S. 2012) recently affirmed this Court's jurisdiction over TCPA claims.
18 In that case, Mims filed an action in federal court alleging that the defendant violated the
19 TCPA by repeatedly using an automatic telephone dialing system to call Mims's phone. *Id.* at
20 742. Mims invoked federal question jurisdiction, and the Supreme Court held that the
21 "TCPA's permissive grant of jurisdiction to state courts does not deprive the U.S. district
22 courts of federal-question jurisdiction over private TCPA suits." *Id.* "Because federal law
23 creates the right of action and provides the rules of decision, Mims's TCPA claim, in § 1331's
24 words, plainly 'aris[es] under' the 'laws ... of the United States.'" *Id.* There is no reason for
25 "any barrier to the U.S. district courts' exercise of general federal-question jurisdiction." *Id.*
26 at 745. Indeed, cases alleging violations of the TCPA are removable under 28 U.S.C. § 1331.

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1 *Id.* at 753 n.15 (stating that “[w]hen Congress wants to make federal claims instituted in state
 2 court nonremovable, it says just that.” (citing *Breuer v. Jim’s Concrete of Brevard, Inc.*, 538
 3 U.S. 691, 696-97, 123 S.Ct. 1882 (2003))).

4 IV. PROCEDURAL REQUIREMENTS

5 6. This Notice of Removal is timely filed within thirty (30) days from the date on
 6 which the Summons and Complaint were served and removable pursuant to 28 U.S.C.
 7 § 1446(b).

8 7. This Court is the United States District Court for the district and division
 9 within which Plaintiff’s action is pending. *See* 28 U.S.C. § 1441(a).

10 8. Venue is proper in this district pursuant to 28 U.S.C. § 1391(a). The claims
 11 asserted in the Complaint arose in this district, and Defendant does business in this district.

12 Therefore, Defendant gives notice that Cause No. 12-2-00031-2 has been removed
 13 from Clallam County Superior Court to this Court.

14 DATED this 9th day of March, 2012.

15 LANE POWELL PC

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 24
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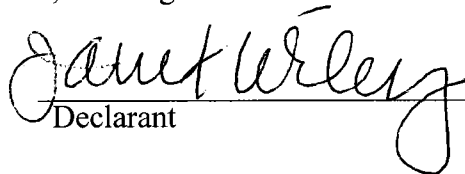
DECLARATION OF SERVICE

Pursuant to RCW 9.A.72.085, the undersigned certifies under penalty of perjury under the laws of the State of Washington, that on the 9th day of March, 2012, the document attached hereto was presented to the Clerk of the Court for filing and uploading to the CM/ECF system. In accordance with their ECF registration agreement and the Court's rules, the Clerk of the Court will send e-mail notification of such filing to the following persons:

Dennis R. Kurz
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- ☒ by **CM/ECF**
☐ by **Electronic Mail**
☐ by **Facsimile Transmission**
☐ by **First Class Mail**
☐ by **Hand Delivery**
☐ by **Overnight Delivery**

DATED this 9th day of March, 2012 at Seattle, Washington.


Declarant

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